



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,139	08/21/2003	Mark Albert	062891.1142	7140
5073	7590	08/04/2006	EXAMINER	
BAKER BOTTS L.L.P. 2001 ROSS AVENUE SUITE 600 DALLAS, TX 75201-2980			ERB, NATHAN	
			ART UNIT	PAPER NUMBER
			3639	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/645,139	ALBERT ET AL.	
	Examiner	Art Unit	
	Nathan Erb	3639	

—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 03 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
SEE ACCOMPANYING SHEET.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


JOHN W. HAYES
SUPERVISORY PATENT EXAMINER

Regarding applicants' argument with respect to claim 1, applicants first argue that Keiser does not teach such that the end user can verify the pricing parameter before accessing the data segment. Keiser does indeed disclose this limitation. As Examiner noted in column 24, lines 43-46 of Keiser, the market researcher using the marketing research tool may display or download pricing information. In Keiser, the data segment is the pricing information. Before accessing that pricing information, the user must verify the pricing information he or she wants to access. This is disclosed when the reference states in that cite that the user may "choose" the information for display or download, the word "choose" indicating that the user may indicate specific information of his or her choice to be viewed or downloaded. Contrary to assertion by applicants in their remarks, Keiser's citation does refer to a pricing parameter relating to the data segment to be accessed by the end user in that the user [end user] indicates a pricing parameter [selected type of pricing information to be displayed or downloaded] relating to a data segment to be accessed [the actual resulting information that is displayed or downloaded]. Note that claim 1 does not specify whether pricing parameter consists of the name of the pricing parameter or the pricing parameter's associated quantity. Applicants also question whether Keiser discloses a content services gateway coupled to the billing system element and operable to communicate with the billing system element in order to manage distribution of quota provided to the end user, wherein the quota reflects a currency for the end user to apply in accessing the data segment. Keiser does indeed disclose this limitation. As Examiner noted in column 14, lines 45-59, column 24, lines 5-11, and column 23, lines 63-67, Keiser discloses a gateway which manages the distribution of information comprising stop limit order information. In Keiser, the quota is the set amount of information that is to be distributed to the user, and the information [quota] reflects the currency [stop limit order prices provided in terms of currency] for the user to apply in accessing data segment by choosing to make that information the information to be delivered to him in the data segment. Contrary to applicants' assertions, information to be delivered in a data segment which has been chosen by the user to be delivered in the data segment has indeed been applied by the user in accessing the data segment. There is no indication in the language of claim 1 that applying currency in accessing a data segment has to mean using currency to pay for such access, as opposed to using currency information in one's data segment request to specify that one wants such currency information in the data segment to be accessed. Therefore, applicants' argument is not persuasive with respect to claim 1.

Regarding applicants' argument with respect to claims 7 and 9, the applicants assert that the reference does not disclose every limitation of the claims. With respect to claim 7, it is true that Keiser does not specifically disclose a known user table (KUT) operable to store an Internet Protocol (IP) address associated with the end user, the KUT being further operable to store information associated with first and second network nodes being used by the end user. However, note that for a 35 USC 103 rejection, it is not essential that published references be relied upon for every single limitation of the claims in a rejection. An Examiner may also rely on information that was well-known to a person of ordinary skill in the art at the time of applicants' invention. See MPEP 2144.03. That is the case for this limitation. Therefore, applicants' argument with respect to claim 7 is not persuasive. With respect to claim 9, it is true that Keiser does not specifically disclose a quota manager element operable to receive identifiers associated with first and second network nodes and to notify the billing system element of a change from the first network node to a second network node. However, note that for a 35 USC 103 rejection, it is not essential that published references be relied upon for every single limitation of the claims in a rejection. An Examiner may also rely on information that was well-known to a person of ordinary skill in the art at the time of applicants' invention. See MPEP 2144.03. That is the case for this limitation. Therefore, applicants' argument with respect to claim 9 is not persuasive.

Since none of applicants' arguments with respect to the claims discussed above were persuasive, the rejections for the claims similar to these claims and the dependent claims still stand as well.